



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:	)	
	)	
Redacted	)	ISCR Case No. 15-06339
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Robert J. Kilmartin, Esq., Department Counsel  
For Applicant: Gary Myers, Esq.

03/28/2017

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is a naturalized U.S. citizen who was born in Lebanon. His spouse is a U.S. permanent resident, who intends to apply for U.S. citizenship as soon as she is eligible. His mother is a naturalized U.S. citizen residing in the United States. Applicant has three sisters and one brother who are resident citizens of Lebanon. Applicant has established significant ties to the United States over the past 20 years, and he can be counted on to act in U.S. interests. Clearance is granted.

**Statement of the Case**

On March 21, 2016, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline B, Foreign Influence, and explaining why it was unable to grant him a security clearance. The DOD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended (EO); DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on September 1, 2006.

Applicant responded to the SOR on March 30, 2016, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On July 6, 2016, Applicant's counsel entered his appearance and requested a hearing date after September 11, 2016. On July 14, 2016, the case was assigned to me to consider whether it is clearly consistent with the national interest to grant a security clearance for Applicant. On September 26, 2016, I scheduled a hearing for October 18, 2016.

I convened the hearing as scheduled. Two Government exhibits (GEs 1-2) and nine Applicant exhibits (AEs A-I) were admitted into evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on October 27, 2016.

At the Government's request and without any objection from Applicant, I agreed to take administrative notice of pertinent facts related to Lebanon.<sup>1</sup> The Government's request for administrative notice, dated June 23, 2016, was based on excerpts of publications from the U.S. State Department, the U.S. Department of Justice, and the Congressional Research Service. Excerpts from some of the documents were provided to me at the hearing.<sup>2</sup> The facts administratively noticed are set forth in the Findings of Fact, below.

### **Summary of SOR Allegations**

The SOR alleges under Guideline B that Applicant's three sisters and one brother are resident citizens of Lebanon (SOR ¶ 1.a); that Applicant's fiancée is a citizen of Lebanon residing with him in the United States (SOR ¶ 1.b); and that Applicant's mother is a citizen of Lebanon who resides with Applicant or his brother in the United States (SOR ¶ 1.c). When he responded to the SOR allegations (Answer), Applicant admitted that four of his siblings are resident citizens of Lebanon, but that one sister has been approved for immigration to the United States and is awaiting her interview. Applicant denied SOR ¶ 1.b in that he and his fiancée married in the United

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<sup>1</sup>The Government's formal request and the attached documents were not admitted into evidence but were included in the record. I agreed to take administrative notice, subject to my obligation to make accurate and timely assessments of the political landscape in foreign countries when adjudicating Guideline B cases. See e.g., ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007).

<sup>2</sup> The Government relied in part on the State Department's *Country Reports on Human Rights Practices for 2014: Lebanon*. I was not provided the publication but was given the URL where the information could be accessed. In addition to the *Travel Warning* dated December 11, 2015, relied on by the Government, I was provided an earlier *Travel Warning* from October 19, 2015, not referenced in the Administrative Notice request. Consistent with Appeal Board precedent requiring consideration of updated information, I reviewed the December 2015 *Travel Warning*. Additionally, I note that some of the source information cited by the Government had been updated before its June 23, 2016 Administrative Notice request. For example, the State Department's *Country Report on Human Rights Practices for 2015-Lebanon* and the State Department's *Country Report on Terrorism for 2015* were released respectively on April 13, 2016, and June 3, 2016. Additionally, previous travel warnings for Lebanon have been superseded by travel warnings issued on July 29, 2016, and recently on February 15, 2017. The State Department has also released its *Country Reports on Human Rights Practices for 2016: Lebanon*. The updated reports of the U.S. State Department are available at [www.state.gov](http://www.state.gov).

States in March 2015, and she obtained her U.S. permanent residency in September 2015. Applicant admitted that his mother is a Lebanese citizen legally residing in the United States, but she has applied for U.S. citizenship.

### **Findings of Fact**

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 42-year-old business program manager, who has held his current position with a defense contractor since October 2014. He was born in a predominantly Christian area in Lebanon and graduated from high school in Lebanon in June 1992. (Tr. 33-34.) He came to the United States on a student visa in August 1995. In January 1996, he began studies in a dual program toward his bachelor's and master's degrees in electrical engineering, which he completed in October 2002. He earned two more master's degrees: in computer engineering in June 2006 and in finance in September 2010. (GE 1; Tr. 21-24.)

Applicant's father died in December 1999 in Lebanon. Applicant traveled to Lebanon in early 2000 to see his mother and five siblings (three sisters and two brothers). It was Applicant's first trip to Lebanon since coming to the United States. He traveled on his Lebanese passport issued in July 1991. (GE 1; Tr. 24-25.)

Applicant initially pumped gas and worked as a cashier during the day to pay for his education. He obtained a job with a commercial company that sponsored him for a three-year work visa and U.S. permanent residency. After six years in that job, he moved on to another company in the same line of work for a couple of years. From September 2004 through October 2008 he worked as a product engineer for a U.S. company where he started dealing with International Traffic in Arms (ITAR) regulations. (GE 1; Tr. 27.) Applicant traveled to Lebanon on his Lebanese passport for his cousin's engagement in December 2004 and marriage in July 2005,<sup>3</sup> and with a friend for a beach vacation in December 2007. (GE 1; Answer; Tr. 34-35.)

Applicant became a naturalized U.S. citizen and obtained his U.S. passport in May 2008. (GE 1.) At his brother's request, in June 2008, Applicant applied for the elder of his two brothers in Lebanon to emigrate from Lebanon to the United States. (Tr. 48.) The application was approved and pending further immigrant visa processing steps. (AE I.) Applicant also sponsored his mother for immigration to the United States. His mother came to the United States for the first time in approximately April 2009. (GEs 1, 2.)

Applicant began working as a program manager for a new employer in November 2008. He worked on aerospace programs subject to ITAR regulations, but he did not require a security clearance. (AEs E, F; Tr. 29-31.) In 2010 or 2011, Applicant began corresponding online with an old childhood friend (now spouse). (Tr. 51.) In

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<sup>3</sup> Applicant testified that his cousin immigrated to the United States as a child and was a U.S. citizen. He had a close relationship with his cousin, who became engaged to a woman in Lebanon. (Tr. 35.)

August 2011, he went to Lebanon for 30 days on his U.S. passport to vacation at the beach. (Tr. 35.) Applicant went to Lebanon for 45 days in March 2014 to meet his future spouse in person (Tr. 51), and they became engaged while she visited him in the United States in May 2014. (GE 2; AE A; Tr. 36.) He went to Lebanon for another 45 days in September 2014 to visit his future spouse and to discuss marriage plans. Applicant visited with his family members when in Lebanon but usually for less than a day. (GE 1; Tr. 35-36.)

Shortly after Applicant returned from Lebanon in October 2014, he began his current employment with a university-affiliated laboratory that has contracts with the DOD. On October 14, 2014, he completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). He disclosed that he had daily contact by telephone or electronic media with his then fiancée, who was a resident citizen of Lebanon at the time, but he indicated that he had applied for a fiancée visa for her to immigrate to the United States. He anticipated her to immigrate in January 2015. Applicant indicated that under his sponsorship, his youngest brother had immigrated to the United States in March 2012 and had acquired U.S. permanent residency.<sup>4</sup> His brother was working as an automotive technician as of October 2014, but he was laid off in December 2014. (GE 3.) Applicant provided his U.S. address for his mother, a Lebanese citizen, whom he had also sponsored for U.S. permanent residency. He indicated that his mother was overseas, and he expected her to return to the United States in February 2015. While his mother had lived with him, he expected her to live with his brother when she returned to the United States. Applicant disclosed the Lebanese citizenship and residency of his other siblings. Sister #1, now age 44, is an elementary school teacher. Sister #2, now age 41, is a married homemaker. Sister #3, now age 35, had never worked outside the home. His brother in Lebanon, now age 37, reportedly works for a municipality ("city hall"). Applicant did not elaborate about his brother's position or duties. Applicant indicated that he calls or texts Sister #3 once every few months. He reported times of frequent contact with his brother in Lebanon but also years without any contact. Applicant indicated that he "seldom" has contact with his sisters #1 and #2, although he disclosed that he saw his siblings in Lebanon in October 2014. (GE 1.) Applicant was granted an interim secret clearance that was subsequently withdrawn. (Tr. 28.)

On February 6, 2015, Applicant was interviewed about his foreign ties by an authorized investigator for the Office of Personnel Management (OPM). He stated that he had surrendered his Lebanese passport when he became a U.S. citizen. Concerning his foreign contacts, Applicant explained that he had telephone contact with his mother several times per month when she was overseas. Information about his contacts with his siblings in Lebanon and their occupations was largely consistent with his SF 86. Applicant advised that he was unaware of his brother's specific occupation. He indicated that he was in contact with this brother once every few months. He denied any contact with sister #2. As for his fiancée, Applicant explained that she worked as a nurse at a hospital in Lebanon. They had met as children, and their relationship began

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<sup>4</sup> Applicant clarified at his hearing that his mother petitioned his brother and sister #3 for immigration but he sponsored the financial aspect of their petitions. (Tr. 47.)

in August 2011. He reported that on February 3, 2015, his fiancée was granted a visa to immigrate to the United States. Applicant stated that to the best of his knowledge, neither his foreign family members nor his fiancée had any ties or loyalties to any foreign government, including Lebanon, and they were unaware that he was undergoing a background investigation for security clearance eligibility. Applicant related no difficulties with any foreign government officials, law enforcement, or customs officials during his trips to Lebanon. (GE 2.)

Applicant's then fiancée (now spouse) joined Applicant in the United States on February 24, 2015, and they married on March 19, 2015. Before they were engaged, Applicant made it clear to his spouse that his life is in the United States and that she should not commit to them being a couple unless she was sure she wanted to live in the United States. (AE G.) She was granted U.S. permanent residency on September 30, 2015. (AEs A, G; Tr. 31-32.) Applicant's spouse intends to apply for U.S. citizenship as soon as she is eligible. She intends to live in the United States permanently. (Answer; AE G.) She and Applicant are expecting their first child, a son, in March 2017. (Tr. 36, 41.) As of late March 2016, Applicant and his spouse were looking to buy a home. (Answer.)

Applicant's mother applied for naturalization in the United States because of her desire to live permanently in the United States. (AE H.) On September 27, 2016, she became a naturalized U.S. citizen. She obtained her U.S. passport on October 5, 2016. (AE B.) While a U.S. permanent resident, Applicant's mother sponsored Applicant's sister #3 for U.S. immigration in May 2010. As of February 3, 2016, sister #3 was in the queue to be interviewed by a U.S. consular or embassy official. As of June 28, 2016, she had been approved for immigration, but she was pending the availability of a visa number. (AE C; Tr. 32.) Applicant's sister #3 did not graduate from high school. She intends to obtain her Graduate Equivalency Diploma in the United States. (Tr. 39.) Applicant is in contact with this sister every few months. (Tr. 39.)

Applicant has not had any in-person contact with sister #1 or sister #2 since his engagement party in Lebanon in October 2014. He had one or two telephone conversations with sister #2 during that trip. Applicant does not telephone either of these sisters. Whether because of their geographical distance, his independence, or the education gap, "It's just the way it is." (Tr. 39-40.) Applicant has been in contact with his brother in Lebanon by electronic media (texting primarily) about the status of his U.S. immigrant application or their mother's well-being. (Tr. 40.) His brother works for a municipality in Lebanon on public work projects, such as paving roads. (Tr. 48.) Should there be any attempt to gain influence on him through his siblings in Lebanon, Applicant would first advise his security office at work about the situation and ask for guidance. He testified that he would not do anything to compromise the United States. His life and future are here. (Tr. 41-43.) Applicant understands that he is not to discuss classified information with persons who lack the appropriate clearance and need-to-know. (Tr. 46.) Applicant's siblings and spouse do not know any specifics about his job. To his knowledge, none of his family members has been approached by Lebanese security forces or government officials or by Hizballah. (Tr. 44.)

Applicant's spouse's parents and her siblings live in Lebanon. Her father is a retired teacher. Her mother does not work outside the home. (Tr. 49.) Applicant's spouse is close to her mother and calls her weekly to inquire about her well-being and that of her father. Applicant talks to his mother-in-law once or twice a year at most to wish her holiday greetings. His father-in-law has problems hearing phone conversation so they do not converse. (Answer.) Applicant's spouse has asked him whether he would have any objection to her mother coming to the United States for a couple of weeks after their son's birth. As of October 2016, there were no firm plans in that regard. (Tr. 50.) Little is known about his spouse's siblings in Lebanon apart from Applicant's testimony that he has not talked to any of her siblings. (Tr. 49.)

## **Character References**

Applicant has favorable character references from his direct supervisor (AE E) and from a co-worker (AE F) at his previous employment from November 2008 through September 2014, and from a present co-worker (AE D). Applicant's former supervisor attests that Applicant as a program manager was responsible for the company's most critical contracts, and that while Applicant did not handle any classified data, he appropriately handled data subject to ITAR regulations. Applicant had very good analytical and management skills. Applicant's former supervisor is aware that Applicant has applied for a security clearance and that the government has foreign influence concerns because some of Applicant's relatives reside in Lebanon. He endorses Applicant for security clearance eligibility. Applicant was reliable and conscientious, performed excellent work, protected sensitive data subject to ITAR regulations, and expressed a perspective always based on what he thought was in the best interest of the United States. (AE E). An engineering manager at the company, who frequently worked with Applicant on a variety of aerospace programs, "consistently found him to be hardworking, honest, and very trustworthy." Also aware that Applicant has family in "a peaceful part" of Lebanon, he noted "a deep sense of pride that [Applicant] has for living and working in the United States." Applicant showed himself to be "a harsh critic of fundamental extremism of any kind." (AE F.)

A business program manager, who currently shares an office with Applicant and holds a top secret clearance, has daily professional contact with him. She understands that Applicant has relatives in Lebanon but also that his relationship to these relatives is not close. She indicates that she would "periodically prod him to call and visit his mother and family in Lebanon to which [Applicant] typically expresses resistance." He has insisted that he has nothing in common with his family in Lebanon and reminded her that everyone should be free to live independent lives and make their own choices. His co-worker indicates that she has every reason to believe that Applicant is a patriotic and loyal citizen of the United States. (AE D.)

## **Administrative Notice**

After reviewing U.S. government publications concerning Lebanon and foreign relations and mindful of my obligation to consider updated information, I take

administrative notice of the facts requested by the Government as supplemented by the following facts:

Lebanon is a parliamentary republic with a religiously diverse population. To mitigate a tendency for the religious diversity to fuel political rivalry and conflict, governmental authority is apportioned under an unwritten “National Covenant” among a Maronite Christian president, a Shia speaker of the Chamber of Deputies (parliament), and a Sunni prime minister. Lebanon’s power-sharing-based democratic system has led to Hizballah (Hezbollah), a U.S. government-designated terrorist organization, holding positions in parliament and in 2011 in Lebanon’s cabinet. Since its independence in 1943, the country has experienced periods of political turmoil interspersed with prosperity built on its position as a regional center for finance and trade. Political tensions have heightened along with some destabilization of the security situation in Lebanon since 2014 because of the civil war in neighboring Syria; the influx of Syrian refugees into Lebanon; the intervention by Hizballah on behalf of the Assad regime in Syria; Lebanese Sunni support for Syrian opposition forces; and a wave of sectarian violence and terrorist attacks in Lebanon. While Lebanon’s security services have had some success at disrupting terrorist networks, suicide bombings and other terrorist acts in Lebanon have killed at least 49 and injured more than 250 people since November 2015. Hizballah, with considerable support from Iran, remains the most capable and prominent terrorist group in Lebanon. Other designated terrorist groups, including Hamas, the Islamic State of Iraq and the Levant (ISIL aka ISIS), the Al-Nusrah Front, and the Abdullah Azzam Brigade pose a constant challenge to state security.

Because of the threats of terrorism, armed clashes, kidnapping, and outbreaks of violence, especially near Lebanon’s borders with Syria and Israel, the State Department continues to warn U.S. citizens to avoid traveling to Lebanon. U.S. citizens have been the targets of terrorist attacks in Lebanon in the past, and the threat of anti-Western terrorist activity persists. The Lebanese government cannot guarantee the protection of U.S. citizens against sudden outbreaks of violence, which can happen at any time in Lebanon. The U.S. State Department considers the threat to U.S. government personnel in Beirut sufficiently serious to require them to live and work under strict security restrictions.

Civilian authorities in Lebanon maintained control over the armed forces and other security forces in 2016, although Palestinian security and militia forces, Hizballah, and other extremist groups continued to operate outside the direction or control of government officials. The most significant human rights abuses committed in 2016 were torture and abuse by security forces, harsh prison and detention center conditions, and limitations on freedom of movement for Palestinian and Syrian refugees in Lebanon. Although laws provide for prosecution and punishment, government officials in Lebanon continue to enjoy a measure of impunity for human rights abuses.

The United States seeks to maintain its traditionally close ties to Lebanon, and to help preserve its independence, sovereignty, national unity, and territorial integrity. Recent U.S. Administrations have focused on weakening Syrian and Iranian influences

in Lebanon. The United States supports full implementation of United Nations Security Council resolutions concerning the disarming of all militias, delineation of the Lebanese-Syrian border, and the deployment of Lebanese Armed Forces in Lebanon. As of November 2013, the United States had pledged well over \$1.3 billion in assistance to Lebanon to support U.S. policies designed to extend Lebanese security forces' control over the country and promote economic growth. Lebanon and the United States belong to some of the same international organizations, including the United Nations, International Monetary Fund, and World Bank. The United States and Lebanon have executed a Trade and Investment Framework Agreement to expand trade relations and remove obstacles to trade and investment between the countries. Lebanon is a member of the Global Coalition to Counter ISIL. The United States is Lebanon's closest counterterrorism partner.

Lebanese citizens and other nationals living outside of Lebanon have provided or attempted to provide material support for Hizballah or its activities. In February 2006, a dual citizen of Lebanon and Canada was sentenced to 60 months in prison for attempting to export military night-vision equipment to Hizballah. In November 2007, a Lebanese national living in the United States pleaded guilty to immigration fraud in that she obtained U.S. citizenship by providing forged documents of a fraudulent marriage to U.S. immigration officials and used her fraudulently procured U.S. citizenship to gain employment in the U.S. intelligence community, to having accessed a federal computer system to unlawfully gain information about her relatives and a national security investigation into Hizballah, and to conspiracy to defraud the United States. In December 2008, a U.S. resident pleaded guilty to providing material support in the form of satellite transmission services to a Hizballah television station. In August 2012, the United States seized \$150 million in connection with an international money laundering scheme involving the now defunct Lebanese Canadian Bank and Hizballah using the U.S. financial system to launder narcotics trafficking and other criminal proceeds through West Africa into Lebanon. In March 2015, a citizen of Suriname was sentenced to 195 months in prison for attempting to support Hizballah. In exchange for a multi-million dollar payment, he agreed to allow large numbers of purported Hizballah operatives to use Suriname as a permanent base for attacks on American targets.

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative



goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

The security concern relating to the guideline for foreign influence is articulated in AG ¶ 6:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United

States citizens to obtain protected information and/or is associated with a risk of terrorism.

Applicant has foreign connections that present a potential risk of divided loyalties or undue foreign influence. Four of Applicant's five siblings are resident citizens of Lebanon. His mother was a citizen of Lebanon with U.S. permanent residency as of the issuance of the SOR in March 2016. However, consistent with her intent to reside here permanently, she became a naturalized U.S. citizen in September 2016. Applicant married his spouse, a Lebanese citizen, in March 2015. She acquired her U.S. permanent residency in September 2015. Applicant's in-laws reside in Lebanon, but the record is silent about their citizenship, which may well be with Lebanon. Applicant's ties through his spouse to her parents and siblings cannot be considered in disqualification.<sup>5</sup> Nonetheless, the Lebanese citizenship and residency of four of his siblings and his spouse's Lebanese citizenship could establish three disqualifying conditions under AG ¶ 7:

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information; and

(d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

The salient issue under AG ¶¶ 7(a), 7(b), and 7(d), is whether there is substantial evidence of a "heightened risk" of foreign influence or exploitation because of the respective foreign tie, contact, or interest. The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government or owning property in a foreign country, but it is nonetheless a relatively low standard. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability to government coercion. The risk of coercion, persuasion, or

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<sup>5</sup> The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant's credibility; to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole-person analysis under Section 6.3 of the Directive. See, *e.g.*, ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012). Accordingly, the potential for foreign influence because of his spouse's family members in Lebanon can be considered for other circumstances, such as whether Applicant has met a condition in mitigation.

duress is significantly greater if the foreign country has an authoritarian government; a family member is associated with, or dependent on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

The United States has had traditionally close ties to Lebanon. Recognizing the importance of Lebanon's stability to the Middle East, the United States has pledged well over \$1.3 billion in assistance to Lebanon to support U.S. policies designed to extend Lebanese security forces' control over the country and promote economic growth. Lebanon is an ally in counterterrorism efforts. However, Hizballah, a U.S. designated terrorist organization, has held seats in Lebanon's parliament and cabinet. With considerable support from Iran, Hizballah remains the most capable and prominent terrorist group in Lebanon. Lebanese citizens living in the United States and other foreign nationals have been implicated in attempting to provide material support for Hizballah.

There is no evidence that Applicant's siblings in Lebanon have been targeted or pressured. Nothing about his family members' previous or present occupations or activities creates a heightened risk. Two of his sisters do not work outside the home. His other sister is a schoolteacher. While Applicant's brother is employed by his local municipality, he does manual work on infrastructure projects, like paving roads. Applicant is the most educated in his family. To Applicant's knowledge, none of them had a direct affiliation with the Lebanese government, or any military, security, or intelligence responsibilities. It has not been demonstrated that the Lebanese government is actively engaging in the collection of U.S. intelligence. There does not appear to be a significant risk that the Lebanese government would resort to coercive means to obtain sensitive information from Applicant's siblings, who do not know that he is under consideration for security clearance eligibility with the DOD.

Lebanon faces threats by several terrorist and extremist groups that have demonstrated a willingness and ability to strike civilian targets. The United States continues to warn U.S. citizens against traveling to Lebanon because of the threats of terrorism, armed clashes, kidnapping, and outbreaks of violence, especially near Lebanon's borders with Syria and Israel. Terrorist groups such as Hamas, Hizballah, and ISIL commit indiscriminate acts of violence and attack Western targets to gain attention and increase their membership and power. There is no indication that they use terrorism to gain access to U.S. sensitive or classified information. Even so, the significant risk of terrorism in Lebanon creates a heightened risk. AG ¶¶ 7(a) and 7(b) are established primarily because of Applicant's contacts and connections with sister #3 and his brother in Lebanon. Applicant contacts these siblings occasionally, usually by electronic media. He supported both of them for U.S. immigration by sponsoring his brother and by providing a financial affidavit of support for his sister. While his sister's U.S. immigration is pending only a visa number, a heightened risk exists as long as she remains a Lebanese resident citizen. Applicant does not share close relations with sister

#1 or sister #2. His contact with them over the years has been limited. He did not make an effort to see them during some of his trips to Lebanon, and while they attended his engagement party in 2014, his contact with them in person or otherwise has been very infrequent since August 1995. However, while not fully explored, there is the risk that exists through his mother and her presumably close relations with her four children who are resident citizens of Lebanon.<sup>6</sup> The risk of foreign influence is not heightened by his spouse's Lebanese citizenship, given her immigration to the United States, her acquisition of U.S. permanent residency, and her intent to establish a life in the United States. Similarly, his mother now enjoys the protection of U.S. citizenship, and she too intends not to reestablish residency in Lebanon.

Concerning potential factors in mitigation, AG ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.," is difficult to satisfy, given the ongoing risk of terrorist activity in Lebanon, although there is no evidence that Applicant's family members (or his spouse's family members) have been targeted or victimized.

There is nothing unusual about the nature and extent of Applicant's contacts with his siblings. Given the limited nature of his contacts with sister #1 and sister #2 since August 1995, AG ¶ 8(c), "contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation," has some applicability. However, the sibling bond, especially to sister #3 and his brother in Lebanon, cannot reasonably be characterized as casual.

A heightened risk of undue foreign influence may also be mitigated under AG ¶ 8(b), "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest." Applicant expressed no loyalty to his native Lebanon. Present and former co-workers found Applicant's perspective to be in line with U.S. interests and supportive of the American way of life. More telling, Applicant's actions lead me to find that he can be expected to resolve any conflict of interest in favor of the United States. He came to the United States at age 21 for college. He earned his undergraduate and three graduate degrees here, working to pay for his education. Under the sponsorship of a former employer, he became a U.S. permanent resident. He sponsored his mother for U.S. permanent residency and brought her to the United States to live with him. He became a naturalized U.S. citizen in May 2008 and shortly thereafter applied for a brother to immigrate to the United States.

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<sup>6</sup> AG ¶ 7(d) could be implicated because of the risk that exists indirectly through his mother's presumed bonds of affection to her children in Lebanon. Applicant gave his address for his mother on his SF 86. While he expected his mother to live with his brother on her return from a trip to Lebanon, her town address on her naturalization papers is the same town in which Applicant and his spouse currently reside.

Before they married, Applicant made it clear to his spouse, then a Lebanese resident citizen, that she had to commit to immigrating to the United States if she wanted their relationship to continue. He sponsored her for a fiancée visa. He and his spouse are expecting their first child, and they see their future as a family being in the United States. The persons to whom Applicant is closest (spouse, mother, and a brother) are U.S. residents with legal permanent status or citizenship. There is no evidence that Applicant or his spouse has any financial interests in Lebanon. Limited evidence was presented about Applicant's U.S. assets, although he obviously has employment income. He and his spouse were looking for a home to purchase in the United States as of late March 2016. Applicant's professional career has been solely in the United States, and by all accounts, he has shown himself to be a dedicated, reliable employee who handled ITAR material appropriately. The foreign influence concerns have been mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).<sup>7</sup> The analysis under Guideline B is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) warrant additional comment.

As with many immigrants to the United States, Applicant has some family ties in his native country. His spouse, likewise a native of Lebanon, has ongoing weekly contact with her mother, to whom she understandably has close ties of affection. Applicant's tie to his parents-in-law was not shown to be closer than one would ordinarily expect of an in-law relationship. The Appeal Board acknowledged in ISCR Case No. 08-10025 (App. Bd. Nov. 3, 2009) that "people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member." Applicant testified credibly that if faced with the untenable situation of undue pressure or influence being placed on a family member, he would report the situation to his employer's security office and ask for guidance. For the reasons noted, I conclude that it is clearly consistent with the national interest to grant security clearance eligibility for Applicant.

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<sup>7</sup> The factors under AG ¶ 2(a) are as follows:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

### **Formal Findings**

Formal finding for or against Applicant on the allegation set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, is:

Paragraph 1, Guideline B:           FOR APPLICANT

Subparagraphs 1.a-1.c:   For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Elizabeth M. Matchinski  
Administrative Judge